

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**MARTIN J. WALSH,
SECRETARY OF LABOR, UNITED
STATES DEPARTMENT OF LABOR
Plaintiff,**

V.

**GREAT ATLANTIC GRAPHICS, INC.,
FREDERICK DUFFY, JR., VINCENT
GIARROCCO, GREAT ATLANTIC
GRAPHICS, INC. PROFIT SHARING
401(K) PLAN, AND GREAT ATLANTIC
GRAPHICS, INC. EMPLOYEE
BENEFIT PLAN,
Defendants.**

CIVIL ACTION
No. 21-3280

ORDER

AND NOW, on this **19th** day of **September 2022**, default having been entered against Defendants Great Atlantic Graphics, Inc., Frederick Duffy, Jr., Vincent Giarrocco, Great Atlantic Graphics, Inc. Profit Sharing 401(k) Plan, and Great Atlantic Graphics, Inc. Employee Benefit Plan for failure to appear or otherwise defend this action, and upon consideration of the Plaintiff's Motion for Default Judgment (ECF 12), consistent with the separately docketed Memorandum it is **ORDERED** that:

1. Plaintiff's Motion (ECF 12) is **GRANTED**;
2. **JUDGMENT** is entered in favor of Plaintiff Martin J. Walsh, Secretary of Labor, and against Defendants Great Atlantic Graphics, Inc., Frederick Duffy, Jr., Vincent Giarrocco, Great Atlantic Graphics, Inc. Profit Sharing 401(k) Plan, and Great Atlantic Graphics, Inc. Employee Benefit Plan, consistent with the Memorandum accompanying this Order, as follows:

- a. Defendants shall, jointly and severally, restore all losses that the Great Atlantic Graphics, Inc. Employee Benefit Plan's (the Health Plan's) participants and beneficiaries have incurred as the result of Defendants' violations of ERISA, in the amount of \$338,452.63. The Court imposes this remedy as a surcharge based on the harm caused to the Health Plan's participants and beneficiaries because of Defendants' breaches of fiduciary duties;
- b. Plaintiff is granted leave to appoint an independent fiduciary of his choosing with plenary authority and control over the management and administration of the Plans, including the authority to marshal assets on behalf of the Plans, to pursue claims on behalf of the Plans, and to take all appropriate action for the termination of the Plans and the distribution of benefits to the Plans' participants and beneficiaries, with all costs and fees of the independent fiduciary to be borne by the Defendants, jointly and severally;
- c. The Defendants, representatives, servants, employees and all persons acting by or under their authority shall cooperate fully with the independent fiduciary in its efforts to administer the Plan by delivering or otherwise making available to the independent fiduciary all books, records, bank accounts, brokerage statements, electronic hardware and software, and data files, however stored, relating in any manner to the management and operation of the Plans as well as all corporate records relating to employee elective salary deferrals to the Plans, including but not limited to payroll records, cancelled checks, and W-2 forms;

- d. Defendants Great Atlantic Graphics, Inc., Frederick Duffy, Jr., and Vincent Giarrocco are removed as fiduciaries of the Plans and shall be removed from all additional positions with the Plans;
 - e. Defendants Great Atlantic Graphics, Inc., Frederick Duffy, Jr., and Vincent Giarrocco, shall be permanently enjoined from serving as trustee, fiduciary, advisor, or administrator to any employee benefit plan, as that term is defined at Section 3(3) of ERISA, 29 U.S.C. §1002(3), and from serving in any capacity that involves decision-making authority or custody or control of the moneys, funds, assets, or property of any employee benefit plan;
 - f. Defendants are permanently enjoined from violating Title I of ERISA; and
 - g. This Court retains jurisdiction of this action for purposes of enforcing compliance with the terms of this Default Judgment.
3. The Clerk of Court is directed to close this case.

THE COURT:

A handwritten signature in blue ink, appearing to read "Berle M. Schiller", followed by a horizontal line.

Berle M. Schiller, J.